

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:21-CT-3226-D

JONATHAN JAMES NEWELL,)
)
Plaintiff,)
)
v.)
)
JOSH STEIN, et al.,)
)
Defendants.)

ORDER

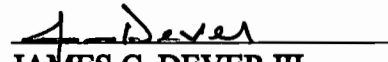
On July 30, 2021, Jonathan James Newell (“Newell” or “plaintiff”), a state inmate proceeding pro se and in forma pauperis, filed a complaint under 42 U.S.C. § 1983, alleging violations of his First, Eighth, and Fourteenth Amendment rights [D.E. 1, 2, 9]. Newell contends that the remaining two defendants (nurses Fleming and Mosley) “denied [him] access to medical care for cancer screening services” for at least one year despite filing several sick call requests and even though he has physical symptoms consistent with several types of cancer or possibly multiple sclerosis. Compl. [D.E. 1] 6–7; see [D.E. 10, 12, 32]. On November 3, 2022, the court referred the action to Magistrate Judge Numbers for an evidentiary hearing and Memorandum and Recommendation (“M&R”) on the issue of exhaustion of administrative remedies [D.E. 42].

On December 13, 2022, Magistrate Judge Numbers conducted an evidentiary hearing. See [D.E. 48, 49]. On January 24, 2023, Magistrate Judge Numbers issued an M&R and recommended that the “court should find that Newell has exhausted his administrative remedies and allow his case to proceed.” [D.E. 50] 5. Defendants did not object to the M&R. Newell filed a nonsensical response about the statute of limitations and asked to proceed to trial [D.E. 51].

“The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (cleaned up); see 28 U.S.C. § 636(b). Absent a timely objection, “a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond, 416 F.3d at 315 (quotation omitted).

The court has reviewed the M&R and the record. The court is satisfied that there is no clear error on the face of the record. Accordingly, the court ADOPTS the conclusions in the M&R [D.E. 50] and DIRECTS the Attorney General to file a response to this order on or before March 30, 2023 with three proposed trial dates for August, 2023.

SO ORDERED. This 8 day of March, 2023.


JAMES C. DEVER III
United States District Judge